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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/771,676

02/03/2004

Anton Krallmann

15551\*1 (P13518US/Le)

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23416 7590 12/12/2008  
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EXAMINER

MIGGINS, MICHAEL C

ART UNIT

PAPER NUMBER

1794

MAIL DATE

DELIVERY MODE

12/12/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/771,676	<b>Applicant(s)</b> KRALLMANN ET AL.	
	<b>Examiner</b> Michael C. Miggins	<b>Art Unit</b> 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 9-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### **Examiner's Comments**

Item 4(a) on page 1 of the non-final rejection of 5/12/08 has been corrected herein. However, claim 9 was addressed and rejected in the non-final rejection of 5/12/08 and the type-o of item 4(a) does not preclude the instant office action from being made final.

With regards to Item (12) from page 1 of the non-final rejection of 5/12/08, the certified copy of the priority document is not contained in the case file. While applicant may have sent in said document on 7/19/04, the document is not in the file. It is respectfully requested that applicant send in another copy so as to complete the file history.

### **REJECTIONS WITHDRAWN**

1. The 112 rejection set forth in the non-final rejection of 5/12/08, pages 2, paragraph 2 has been withdrawn.

### **REJECTIONS REPEATED**

2. All of the 103 rejections set forth in the non-final rejection of 5/12/08, pages 2-4, paragraphs 3-5 are repeated for the reasons of record.

### **NEW REJECTIONS**

3. There are no rejections.

### **ANSWERS TO APPLICANT'S ARGUMENTS**

4. Applicant's arguments of 8/12/08 have been carefully considered but are deemed unpersuasive. The 112 rejection set forth in the non-final rejection of 5/12/08 has been withdrawn and thus applicant's arguments are moot.

Applicant has argued that Zhu discloses two separate yarns, one of which is metal, twisted together and thus Zhu fails to disclose a yarn containing a metal insert. However, applicant does not define the metal insert at all in the claims. Furthermore, the end result is a yarn containing a metal insert since the metal filament is twisted in (paragraphs [0009] and [0021]) and therefore reads on a metal insert. Zhu also discloses as a goal to include as much of the metal filament into the organic multifilament as much as possible (paragraph [0021]).

Applicant has argued that neither reference discloses a yarn having a metal insert which can be used to close a sausage casing at one end or two ends. However, DE 2512720 discloses a multifilament yarn composed of flax fibers and polyolefin fibers used for tying the ends of a sausage casing and Zhu discloses a multifilament yarn with a metal insert as discussed above for the purpose of providing improved cut resistance (paragraph [0021]). Therefore, a yarn having a metal insert which can be used to close a sausage casing at one end or two ends is provided upon the combination of DE 2512720 and Zhu.

Applicant has argued that there would be no reason to apply the cut resistant yarn of Zhu to the sausage casing of DE '720 since Zhu is directed to specialty yarns

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and fabrics which can be used in protective garments. However, DE '720 specifically seeks to avoid untying and maintain tying strength even to the boiling point of water. Therefore, a metal filament avoids untying by preventing cutting during transport and storage and thus one of ordinary skill in the art would be motivated to combine DE '720 and Zhu especially since both are drawn to multifilament yarns.

Applicant has argued that one of ordinary skill would have no expectation of successfully providing a sausage casing closure which less susceptible to slippage during the processing of the sausage. It is first noted that such a limitation does not appear in the claims and there is a clear expectation of success since Zhu specifically discloses the inclusion of a metal insert in a multifilament yarn containing organic filaments (paragraph [0009]) and DE '720 discloses a multifilament yarn containing organic filaments.

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Miggins whose telephone number is 571-272-1494. The examiner can normally be reached on 1:00-10:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael C. Miggins/  
Primary Examiner, Art Unit 1794

MCM  
December 8, 2008